

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MYRON GIBBS,	§	
	§	No. 605, 2010
Petitioner Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	C.A. No. 10M-09-005
Respondent Below,	§	Cr. ID No. 0911008893
Appellee.	§	

Submitted: November 16, 2010

Decided: February 8, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 8th day of February 2011, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) On July 7, 2010, a Superior Court jury found the appellant, Myron Gibbs, guilty of Rape in the Second Degree, Rape in the Fourth Degree and Offensive Touching.¹ Gibbs was sentenced, on September 17, 2010, to a total of fifteen years at Level V followed by two years and six months at Levels IV and III.

¹ *State v. Gibbs*, Del. Super., Cr. ID No. 0911008893.

(2) On September 22, 2010, Gibbs, through counsel, appealed his conviction and sentence to this Court. The direct appeal, *Gibbs v. State*, No. 604, 2010, is currently on remand to the Superior Court, with jurisdiction retained, to consider Gibbs' request to proceed *pro se*.²

(3) Prior to the filing of the direct appeal, Gibbs filed a *pro se* petition for a writ of habeas corpus in the Superior Court. By order dated September 8, 2010, the Superior Court denied Gibbs' petition. This appeal followed.

(4) In Delaware, the writ of habeas corpus provides relief on a limited basis.³ After a judgment of conviction and sentencing, the only issues to be decided on a petition for a writ of habeas corpus are the existence of a judgment of conviction by a court of competent jurisdiction and a valid commitment.⁴

(5) In this case, the Superior Court had jurisdiction over the crimes for which Gibbs was convicted, and the sentencing order committing Gibbs to the custody of the Department of Correction is valid on its face. Gibbs has not demonstrated that he is entitled to habeas corpus relief.

² *Gibbs v. State*, Del. Supr., No. 604, 2010, Ridgely, J. (Feb. 7, 2011) (remanding for evidentiary hearing).

³ *Hall v. Carr*, 692 A.2d 888, 891 (Del. 1997).

⁴ *Curran v. Woolley*, 104 A.2d 771, 773 (Del. 1954).

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice